

PUBLIC COPY

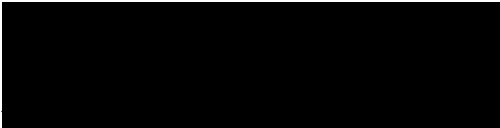
**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

M1

U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20536



**U.S. Citizenship
and Immigration
Services**



FILE:



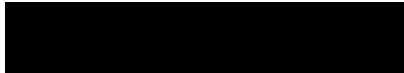
Office: California Service Center

Date:

APR 08 2004

IN RE:

Applicant:



APPLICATION:

Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:

Self-represented

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. This case will be remanded.

The applicant is a native and citizen of El Salvador who filed his application for Temporary Protected Status (TPS) on May 6, 2001. Subsequently, on January 22, 2003, the applicant was notified to appear for his scheduled fingerprint appointment.

On July 17, 2003, the director denied the application for TPS under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254, due to his abandonment of the application. The director's conclusion was based on the applicant's failure to appear for his scheduled fingerprint appointment. The director advised the applicant that, while the decision could not be appealed, the applicant could file a Motion to Reopen within 30 days.

On July 25, 2003, the applicant filed a motion to reopen stating that he had forgotten about his appointment. The director accepted the motion as an appeal and forwarded the file to the AAO in error. However, the applicant has, in fact, submitted a motion to reopen that must be addressed by the director.

As the director's decision was based on lack of prosecution, the AAO has no jurisdiction on this case, and it may not be appealed to the AAO. Therefore, the case will be remanded and the director shall consider the motion.

As always in these proceedings, the burden of proof rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361.

ORDER: The case is remanded to the director for further action consistent with the above and entry of a decision.